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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 THOMAS RUSSELL BOARDMAN,

9 Petitioner,

10 v.

11 STATE OF WASHINGTON,

12 Respondent.

CASE NO. C19-5328 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation (“R&R”)
14 of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 17, and
15 Petitioner Thomas Russell Boardman’s (“Boardman”) objections to the R&R, Dkt. 18.

16 On July 2, 2019, Judge Creatura issued the R&R recommending that the Court
17 dismiss the petition without prejudice for failure to exhaust. Dkt. 17. On July 15, 2019,
18 Boardman filed objections. Dkt. 18. On August 7, 2019, Boardman filed a supplement.
19 Dkt. 19.

20 The district judge must determine de novo any part of the magistrate judge’s
21 disposition that has been properly objected to. The district judge may accept, reject, or
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1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Boardman contests the well-settled and binding precedent that he
4 must exhaust his state court remedies before seeking relief in a federal habeas petition.
5 Dkts. 18, 19. Boardman's argument do not persuade the Court to carve out an exception
6 to "one of the pillars of federal habeas corpus jurisprudence." *Calderon v. U.S. Dist.*
7 *Court for N. Dist. of California*, 134 F.3d 981, 984 (9th Cir. 1998). Therefore, the Court
8 having considered the R&R, Boardman's objections, and the remaining record, does
9 hereby find and order as follows:

- 10 (1) The R&R is **ADOPTED**;
- 11 (2) Boardman's petition is **DISMISSED without prejudice**;
- 12 (3) A Certificate of Appealability is **DENIED**; and
- 13 (4) The Clerk shall enter a JUDGMENT and close the case.

14 Dated this 5th day of September, 2019.

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17 BENJAMIN H. SETTLE
United States District Judge